

**REMARKS**

Entry of this amendment is requested in full response to the final Office Action, Paper No. 20051218. Claims 1-8, 11, and 13-36 remain pending in the application upon entry of this amendment. Reconsideration of the outstanding rejections is requested in light of the above amendments and following remarks. Claim 1 has been amended to provide proper antecedent basis for subsequent use of a "motion detector." Claim 29 has been amended consistent with page 12, lines 18-20 to indicate that the receiver is formed as a key fob. As such, it is submitted that no new matter has been added to the application by way of this amendment.

Applicant notes with appreciation the withdrawal of the several bases for rejections made of record in Paper No. 20050710.

Currently, claims 1-6, 8, 11, 13, 19-25, 28, 32, 33, 35 and 36 stand rejected under 35 U.S.C. §103(a) as anticipated by McCarthy et al. (U.S. Patent 6,768,420). Claim 7 stands rejected under 35 U.S.C. §103(a) over McCarthy et al. in view of Ford (U.S. Patent 6,756,896). Claims 14, 16, 29 and 31 stand rejected under 35 U.S.C. §103(a) as being obvious over McCarthy et al. in view of Wilkinson (U.S. Patent 5,892,447). Claims 14, 15, 29 and 30 stand rejected under 35 U.S.C. §103(a) over McCarthy et al. in view of Brinkmeyer et al. (U.S. Patent 5,940,007). Claims 17 and 34 stand rejected under 35 U.S.C. §103(a) as being obvious over McCarthy et al. in view of Barnas et al. (U.S. Patent 6,642,838). Claims 18, 20, 22 and 25-27 stand rejected under 35 U.S.C. §103(a) as being obvious over McCarthy et al. in view of Wilkinson and further in view of Barnas.

**Remarks Directed to Rejection of Claims 1-6, 8-10, 11, 13, 19-25, 28, 32, 33, 35 and 36 under 35 U.S.C. §103(a) as Obvious over McCarthy et al.**

It is respectfully submitted that the claimed invention is aspects of the pending claims have not been afforded patentable weight, but instead considered as obvious to try variants of the prior art. Reconsideration of the claims is therefore requested.

The court has long held that: "'Obvious to try' has long been held not to constitute obviousness. *In re O'Farrell*, 853 F.2d 894, 903, 7 USPQ2d 1673, 1680-81 (Fed. Cir. 1988). A general incentive does not make obvious a particular result, nor does the existence of techniques by which those efforts can be carried out." *In re Deuel*, 34 USPQ2d 1210, 1216 (Fed. Cir. 1995).

Claim 1 includes the language

"a video camera having a **fisheye or other wide angle lens**; ...

an alarm subsystem triggered by said controller communicating **to a remote location** that **the temperature in the space is beyond the thermal threshold and an occupant is within the space** subsequent to a condition precedent **along with a video image generated by said video camera**; and

**a reserve power unit enabling said controller to function upon loss of routine power.**

(emphasis added).

In regard to claim 1, Paper No. 20051218 states in the last paragraph of page 2-end of third paragraph of page 3 that:

The claimed video camera having a fisheye or other wide angle lens is met by the additional sensors including a video camera (column 8, lines 61-67). Any lens would have been chosen for the particular task of capturing an image inside the vehicle, including a fisheye or wide angle lens;...

The claimed alarm subsystem triggered by said controller communicating to a remote location that the temperature in the space is beyond the thermal threshold and an occupant is within the space subsequent to a condition precedent along with a video image generated by said video camera is met by the device

communicating to a remote receiver when a person is detected in the space and the temperature is above the threshold thereby indicating a dangerous situation and sending an image of the vehicle interior to an OnStar operator or the like (abstract, column 2, lines 5-10 and 33-58 and column 7, lines 30-52).

McCarthy does not explicitly disclose the claimed reserve power unit enabling said controller to function upon loss of routing power however examiner takes official notice that it is well known in the art for any kind of electrical device to have a backup or reserve power system to take over powering the device when the main power system fails.

With regard to the limitation of the lens type, Applicant submits that a teaching of a “video camera” is a bare disclosure as to the claimed language regarding a “fisheye or other wide angle lens.” Rather, the Examiner has resorted to an implicit obvious to try rejection. The type of lenses recited in claim 1 provides a wider range of view as compared to other lenses types but at the expense of distortion as to the location and depth of field. Fisheye and other wide angle lenses are nowhere taught in the prior art of record. It is submitted that fisheye and other types of lenses were well known at the time of McCarthy et al. and this reference along with the entire collection of prior art of record is devoid of teachings as to fisheye and other wide angle type lenses. To impart the claimed recitation to the prior art amounts to a rejection as that it would be obvious to try; and this is an improper basis for a prime facie obviousness rejection. Should the rejection be maintained it is respectfully requested that a teaching as to this type of lenses in the context of a trapped occupant sensing system be stated with greater clarity.

With regard to the transmission of a video image as part of alarm subsystem per claim 1, Applicant submits that the present invention communicates to a remote location three critical pieces of information: an occupant within space, elevated temperature and an image of the space (showing occupant). While the list of possible outputs disclosed by McCarthy et al. at reference numeral 650 of Fig. 8 (col. 7, lines 30-52) contemplate one or more of the actions occurring,

none of these possible outcomes communicates the measured temperature along with an image showing the occupant. As such the claimed invention so submitted to provide an information receiver at a remote location an informed sense of the temperature and condition within the confined space. With more information, a remote receiver is capable of dispatching the appropriate help or identifies a false-alarm thereby avoiding the considerable cost of dispatching rescuers. Improved performance is a hall mark of non-obviousness since if the authors of McCarthy et al. had contemplated superior performance they would have taught the same. Therefore, it is respectfully submitted that the communication of temperature reading in the space in concert with an image of the occupant in the interior affords advantages over an image itself or a more notice message of alarm and is non-obvious over the prior art.

With regard to a reserve power unit as recited in claim 1, Applicant requests a reference the Official Notice taken of such systems. While it is readily concede that many common electrical devices have reserve power intended for operation in an emergency setting, Applicant submits that those teaching are in fields of endeavor remote from the claimed invention. Emergency light systems, hospital power grids, and other systems that cannot tolerate power failures provide back-up power supplies at great expense and the provision of switching equipment. McCarthy et al. and the prior art of record suggests that the field at the time of the present invention was of an opinion that such back-up power units were not justified. In an effort to determine whether such units are in the context of analogous art, a reference per the Official Notice that reserve power units are prior art in an inventive context is requested.

Based on the above remarks with respect to any of the three bolded and described aspects of claim 1, Applicant submits that claim 1 is non-obvious over McCarthy et al. Dependent claims

2-6, 8, 11 and 13 are likewise submitted to be non-obvious on the basis of incorporating the above described limitations.

The above remarks with regard to claim 1 are applicable to claim 19 with also includes the above described aspects not found in McCarthy et al. Claims 20-25, and 28 are likewise submitted to be non-obvious on the basis of incorporating the above described limitations.

Claim 32 includes the recitation of "activating a wireless transmitter alarm subsystem in response to a condition precedent of a failure to reset an auditory alarm within a preselected amount of time." This process step provides the space occupant with an opportunity to preclude the transmission of a trapped occupant warning to a remote location.

In contrast to claim 32, McCarthy et al. triggers an alarm after a "time period" (See Paper No. 20051218, page 9, third paragraph). Applicant submits that waiting a preselected period of time is not equivalent to allowing an occupant to override the transmission of a warning signal. An adult occupant may well choose to open a window slightly and sit in a hot vehicle sipping a beverage for a variety of reasons under conditions that would otherwise be harmful to a pet or small child. Giving the adult discretion at this action is afforded by the invention of claim 32 whereas, a system of McCarthy et al. would blindly submit a warning signal after a certain period of time. As such Applicant submits that the limitations of claim 32 are neither taught nor contemplated by McCarthy et al.

Based on the above, Applicant submits that claim 32 is non-obvious over McCarthy et al. Dependent claims 33, 35, and 36 are likewise submitted to be non-obvious on the basis of incorporating the above described limitations.

In light of the above amendments and remarks, reconsideration and allowance of pending claims 1-6, 8, 11, 13, 19-25, 28 32, 33, 35, and 36 under 35 U.S.C. §103(a) as obvious over McCarthy et al. is requested.

**Remarks Directed to Rejection of Claim 7 under  
35 U.S.C. §103(a) over McCarthy et al. in View of Ford**

McCarthy et al. is cited as failing to teach the limitation of the condition precedent for alarm activation being the failure to reset the auditory alarm within a preselected amount of time. Ford is cited to bolster the teachings of McCarthy et al. in this regard.

Claim 7 is submitted to be allowable on the basis of dependency from claim 1, which is now believed to be in allowable form. Ford is submitted to do nothing to bolster McCarthy et al. with regard to the novel aspects of claim 1 and as such reconsideration of the rejection as to claim 7 under 35 U.S.C. §103(a) over McCarthy et al. in view of Ford is requested.

**Remarks Directed to Rejection Claims 14, 16, 29 and 31  
under 35 U.S.C. §103(a) over McCarthy in View of Wilkinson**

Applicant hereby incorporates by reference the remarks of record with regard to the rejection in the Amendment of 21 November 2005.

In light of these remarks, reconsideration and withdrawal of the rejection as to claims 14, 16, 29 and 31 under 35 U.S.C. §103(a) over McCarthy et al. in view of Wilkinson is requested. Based on the dependency from claims 14 and 29, claims 16 and 31 are likewise submitted to be in allowable form.

**Remarks Directed to Rejection of Claims 14, 15, 29 and 30 under  
35 U.S.C. §103(a) Over McCarthy in View of Brinkmeyer et al.**

Applicant hereby incorporates by reference the remarks of record with regard to the rejection in the Amendment of 21 November 2005.

In light of these remarks, reconsideration and withdrawal of the rejection as to claims 14, and 29 is requested. Claims 15 and 30 depend from claims 14 and 29 respectively and are likewise submitted to be in allowable form based on this dependency.

**Remarks Directed to Rejection of Claims 17, 18, 20, 22 and 25-27**

Based on the dependency of claims 17 and 18 from base claim 1 while claims 20, 22 and 25-27 depend from claim 19, and independent claims 1 and 19 are now believed to be in allowable form, these claims are likewise submitted to be in allowable form. Reconsideration and allowance of these claims is solicited.

**Summary**

Claims 1-8, 11 and 13-36 remain pending in the application. Entry of this amendment is requested. Each claim is believed to be in allowable form and directed to patentable subject matter. Reconsideration and withdrawal of the outstanding rejections and the passing of this application to issuance are solicited. Should the Examiner find to the contrary, he is respectfully requested to contact the undersigned attorney in charge of this application to resolve any remaining issues.

Respectfully submitted,

  
Avery N. Goldstein  
Registration No. 39,204  
Gifford, Krass, Groh, Sprinkle,  
Anderson & Citkowski, P.C.  
2701 Troy Center Drive, Suite 330  
P.O. Box 7021  
Troy, MI 48007-7021  
(248) 647-6000

Attorney for Applicant

Serial No. 10/749,494  
Reply to Final Office Action of December 27, 2005



**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

"EXPRESS MAIL" MAILING LABEL NUMBER EV 66954112 US

DATE OF DEPOSIT March 27, 2006

I hereby certify that this paper or fee (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service "Express Mail Post Office To Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Erica L. Triner  
Erica L. Triner